IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY

WEDNESDAY, THE 31ST JANUARY 2007 / 11TH MAGHA 1928

CRL.A.No. 477 of 1997()

SC.6/1995 of ASSISTANT SESSIONS COURT TIRUR, MANJERI DIVISION
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APPELLANT/COMPLAINANT:

STATE OF KERALA, REP. BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

BY ADV. PUBLIC PROSECUTOR SRI.K.C.SANTHOSHKUMAR

RESPONDENTS/ACCUSED 1, 2, 4 TO 8 AND 10 TO 12:

1.NARAPARAMPATH ABDURAHIM,S/O. ABU, PUTHARIKKAL, NEDUVA AMSOM.

2.THEKKEPURATH ABDUL LATHIEF, S/O.ABDULLAKUTTY ALUNGAL FISHERIES COLONY, PARAPPANANGADI, CHETTIPADI.

3.ACHAMPAT SHEREEF BABU @ BABUSAB, S/O.KUNHIKOYA NAHA, NEDUVA AMSOM.

4.KARIMPANAKANDI ABDUL AZEEZ, S/O.BAVA, KARINGALLATHANI, ULLANAM AMSOM.

5.KIZHAKKATH YOUSUFF, S/O.KUNHARAMUTTY, CHETTIPADI, NEDUVA AMSOM.

6.THEKKEPURAM HUSSAIN,S/O.ABDULLAKUTTY, ALUNGAL BEECH, CHATTIPADI, PARAPPANANGADI.

7.PALLIKANDI BEERANKOYA,S/O.MUHAMMED, OTTUMMAL BEACH, PARAPPANANGADI.

8.KURIKKALAKATH ABOOBACKER,S/O.BAVA, KOOTTAYI, VAKKAD.

9.KUNNUMMAL UMMER,S/O.HYDROSEKUTTY,
OTTUMMAL KADAPURAM, PARAPPANANGADI.

BY ADV. SRI.ST.KRISHNNUNNI
SRI.K.K.MOHAMED RAVUF FOR RESPONDENTS
SRI.VELLAYANI SUNDARARAJU
SRI.T.H.ABDUL AZEEZ

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 31/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B.KOSHY, J.

Criminal Appeal.No.477 OF 1997 (B)

Dated this the 31st day of January, 2007

J U D G M E N T

Twelve accused were charge sheeted for the offences punishable under Sections 143, 147, 148, 332 and 307 read with Section 149 of the Indian Penal Code. Since the summons were not able to be served on accused nos.3 and 9, their cases were split up and taken up separately. It is submitted that they were tried subsequently and acquitted in S.C.No.21/1998 and the prosecution was not able to prove any of the allegations therein. The above findings became final. The Sessions Court in this case found that accused nos.1, 4, 5, 7 and 10 were guilty under Sections 143, 147, 148 and 332 read with 149 of I.P.C. But they were not guilty under Section 307 of I.P.C. Accused nos.1, 4, 5, 7 and 10 were ordered to be released on bond for Rs.5,000/- with two solvent sureties under Section 4(1) and 4(3) of the Probation of Offenders Act. All others are acquitted. Against the conviction 4th accused has filed Crl.appeal.No.40/1997 and the 4th accused was acquitted

in appeal by the appellate court by judgment dated 5.7.2002. The State presses the appeal filed against accused nos.1 and 5, 7 and 10. It is the contention of the respondents accused that on the very same reason they are also entitled to get a clear acquittal but they did not file appeal as they were only send on probation. The allegation was that in protest against the attack of a person, the accused called for a hartal on 7.8.1992 and forced the shopkeepers to close down their shutters and they attacked the police party. Injuries were suffered by both police party as well as the accused. The Sessions court clearly found that no case has been made out so as to find that they are guilty under Sections 307 of Cr.P.C. and there is no intention for murder. Injuries were very minor. But court found that accused nos.1, 4, 5, 7 and 10 voluntarily caused hurt to PW2 etc. while discharging their official duty. Of course the 4th accused who was found guilty filed appeal and he was acquitted. Since it is only punishable under the Probation of Offenders Act accused nos.1, 5, 7 and 10 did not file an appeal. It is the case of accused nos.1, 5, 7 and 10 that they have suffered the sentence imposed on them and the

period of probation is over. Offence as alleged to have committed on 7.8.1992. One and half decades are over. Thereafter the respondents were not involved in another crime. Considering the evidence adduced in this case, I agree with the view of the Sessions Court and respondents are not guilty for the offences under Section 307 of I.P.C. and they can be released on probation under Probation and Offenders Act for other offences will meet ends of justice. No grounds are made out for interfering with the acquittal of other accused. Hence I see no merit in this appeal and hence this appeal is dismissed.

J.B.KOSHY, JUDGE

prp

J.B.KOSHY

Criminal.Appeal.477 OF 1997 (B)

JUDGMENT

31st January, 2007